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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,642	08/04/2003	William Suttle Peters	13634-4003	7193
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ORRICK, HERRINGTON & SUTCLIFFE, LLP				
IP PROSECUTION DEPARTMENT				
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SUITE 1600				
IRVINE, CA 92614-2558				
EXAMINER				
ALTER, ALYSSA MARGO				
ART UNIT		PAPER NUMBER		
3762				
MAIL DATE		DELIVERY MODE		
01/29/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: WILLIAM SUTTLE PETERS, HANS HANSFORTH
HENRICHSEN, SCOTT HUGH MILLER, and
RODNEY GORDON PARKIN

Application No. 10/634,642
Technology Center 3700

Mailed: January 29, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 7, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed February 22, 2008 under the heading "Grounds of rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept 2007) for details.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) vacate the Examiner's Answer mailed February 22, 2008;

2) generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;

3) include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and

4) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/eld

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